

# ABSTRACTS

## The Immigration Debate in the EU: the General Context

*Ana Terrón Cusí*

This article sets out to review and assess the current status of European Union actions in the area of immigration. In doing so, we will first briefly examine the historical context—the Schengen Accords and the Maastricht and Amsterdam Treaties. We then go on to discuss in more detail the agreements reached by the Council of the European Union at Tampere, which mark a major step in politically defining how the Union will handle this issue. We then look at what progress has been made thus far and what proposals are under discussion. There is also a discussion of the positions of various political groups, particularly those represented in the European Parliament, as well as the Spanish position and the repercussions of the European developments on the national debate.

## The Debate on Immigration in Spain: an Opportunity Twice Lost?

*Carles Campuzano*

Since the passage in 1985 of the Constitutional Law on the Rights and Freedoms of Foreigners in Spain, commonly known as the Law on the Status of Foreigners, Spain has experienced a process of immigration policy development that has suggested the need to reform the law. A reform begins to take shape starting in 1996 with the first Partido Popular (PP) government. The author focuses on the law of April 2000, which was passed with the support of all the parties represented in the Spanish Parliament, and the subsequent reform of the reform, the law of August 2000, much more restrictive and passed only with the support of the PP's absolute majority in the new legislative period. These developments occurred in a context in which the European Union plans to go much further on immigration issues. In this context, the article makes reference to such topics as Schengen, the Amsterdam Treaty, and the Tampere summit.

## The History of the Schengen Agreement and Convention

*Lode van Outrive*

International cooperation in police matters is certainly not new but cooperation among European Union member states has clearly experienced a qualitative leap since 1980. To understand its rapid development one must understand certain contextual elements as well as its development. We review the pre-Schengen history (the Trevi Groups), followed by the history of Schengen up until the new Amsterdam Treaties (from 1985 until the signature of the Amsterdam Treaty in 1997), and then analyze what these new treaties mean for the evolution of Schengen (particularly the whole integration of the Schengen acquis into the treaties), and finally make a critical assessment.

## Toward an Inclusive European Citizenship: its Extension to Immigrants

*Javier de Lucas*

In this study the author aims to bring to the fore a number of less “visible” aspects of the construction of European citizenship, specifically those relating to the *citizenship statute* for immigrants from outside the Community, their rights, their access to citizenship, understood as a good. He attempts situate them in relation with the possibilities that appear to have opened up in the context of the EU following the “proclamation” of the Charter of Basic Rights at the Nice Summit in December 2000. This charter includes a specific chapter on citizenship (Chapter V), which in conjunction with Articles 61 and 63 of the Amsterdam Treaty of 1997, constitutes a framework for defining European citizenship.

## The Rights of Third Country Nationals in the European Union

The Political and Legal Situation after the Proclamation of Union’s  
Charter of Basic Rights

*Francisco J. Fonseca Morillo*

The Amsterdam Treaty’s going into effect on May 1, 1999 makes the issue of asylum and immigration legally one of Community policy (Title IV of the Treaty on European

Union). On October 15-16, 1999 at Tampere, the Council of the EU gives the starting signal for the creation of a so-called space of freedom, security and justice. At Nice in December 2000, the EU Council proclaims the Union's Charter of Basic Rights, a crucial political document that is beginning to influence the Community system of rights and obligations as relates to third country nationals.

This article's aim is to highlight the contribution of the Charter on the effective application of an integration policy as well as the legislative measures proposed by the Commission in relation to the rights of third country nationals.

## New Measures for Combatting Discrimination in the European Union

*Beate Winkler*

The European Commission on November 25, 1999 adopted two Directives related to racial discrimination and equality respectively and a Community Action Plan for combatting discrimination in the period 2001-2006. Between June and November 2000, the Council of the EU moved ahead with determination and speed in adopting said proposals.

This paper analyzes and describes the two Directives and the Action Plan as well as the role the European Monitoring Centre for Racism and Xenophobia.

## Toward a European Immigration Policy and a Common Sets of Rules on Asylum

*Rinaldo Bontempi*

This article deals with two Reports on immigration and asylum presented by the Commission in late November of 2000, which represented an important step in the evolution of the functions of the Government of the European Union in relation to issues previously dealt with within the context of the rules of national sovereignty. The Commission here proposes a "comprehensive" policy dealing with all (economic, social, political and humanitarian) aspects related to the phenomenon of migration and, as a result, brings to the fore the need for effective coordination between the work of governments on the one hand, and that of social agents, associations, local and regional authorities on the other. According to the Commission, the principal elements

of this new comprehensive approach are the following five policies: new channels for legal immigration; combatting illegal immigration; long-term immigration policies; cooperation with countries of origin; admission for humanitarian reasons. Of course, all this is but the beginning of a political process that is complex, difficult and sure to bring out the contradictions between the universalist callings of our democracies and the pressure from some sectors for simple control. Still, the course that has been set is the right one and merits a commitment to follow.

## Draft Directive on Family Reunification and Other Proposals in the Area of Immigration Law

*Pieter Boeles*

There have been several initiatives related to the shaping of a possible European law on immigration and asylum. In November 2000, the Commission issued a communiqué on Community immigration policy that the author of this article hopes will encourage the Council to support this initiative. The Commission's proposed Directive on family reunification is the most important initiative thus far. The Commission sees family reunification as a necessary part in the success of integration process of third country nationals legally residing in the Member States. According to Article 1, the Directive's purpose is to establish a right to family reunification. The paper below analyzes the Directive's content and objectives as well as a number of comments on its specific provisions (Articles 3, 5, 7, 9, 11, 13, and 16).

## Toward a Common Asylum Policy for the European Union

*Toni Lluçh*

In the process of harmonizing EU members states' asylum policies, as a result of the lack of a common asylum policy, save for the limited Dublin Agreement, we are witnessing a wide variety of non-binding political declarations, at times more the product of fear than of considerations of human rights, that are setting the trend for countries' actions. This article focuses on an analysis of the Dublin Agreement in terms of its achievements and failures over the years of its implementation.

## EU State Fundamentalism in Relation to Immigration

*Ricard Zapata-Barrero*

Since the European Union Treaty (1992), there have been two contrasting conceptions of how one should approach EU political union. From the EU standpoint, this process is a gain, but from the States' point of view a loss. There is, however a third logic that makes up the EU: that of third country immigrants residing in the Member States (Euroimmigrants). In contrast with the two previously cited logics, for this population the same process is neither a gain nor a loss, but simply something that is being discussed and carried out without taking them into consideration. This lack of attention shows that at present the treatment of Euroimmigrants is following a state fundamentalist logic and not a multicultural logic as would be historically appropriate for the EU. In the interests of allowing a discussion of this argument, this paper presents relevant considerations in four steps: the first section presents the theoretical framework that will be followed on focusing the discussion; the second section sets out what is called state fundamentalism with a brief historical review of how the European States have treated immigrants politically; the third section sums up how the EU dealt with immigration from the Trevi Group of 1975 until the Amsterdam Treaty (1997); and the fourth and final section, contains closing comments that, with reference to the Tampere Summit (1999), highlight the normative dilemmas and institutional challenges that are the product of the relationship between the EU and the presence of Euroimmigrants.

## Regularization and Migration Policy in Europe

*Philippe de Bruycker*

The following pages present, in a general way, the contents of *Regularization of illegal immigrants in the European Union*, which includes a comparative synthesis and statistical information for each of the eight countries involved; a description of actions since the beginning of the year 2000; and a systematic analysis of the different categories of foreigners, the types of regularization carried out, and the rules that have governed these actions.

In relation to regularization, the author considers the political coherence of the actions taken by the member states as well as how they relate to two ever more crucial aspects of immigration policy –the integration of legal resident immigrants and the fight against illegal immigration in the context of a control of migratory flows.

## The Italian Immigration Law: the Experience with Tunisia

*Giorgio Napolitano*

Faced with the need to fill a legal vacuum that existed in the area of immigration and to deal with the entry of immigrants and policies on immigration, Italy's centre-left government headed by Romano Prodi initiated a process of drafting a constitutional law on immigration and the status of foreigners (law of 1998). Giorgio Napolitano focuses on these developments and Article 21 of the law, which relates to the relations of the Italian government with the immigrants' country of origin, in this case Tunisia.